

REMARKS

Applicant has carefully reviewed the Application in light of the Office Action mailed May 25, 2004. At the time of the Office Action, Claims 1-22 were pending in the Application. Applicant amends Claims 2, 4, 7, 10, and 15 without prejudice or disclaimer. The amendments to these claims are not the result of any prior art reference and, thus, do not narrow the scope of any of the claims. Furthermore, the amendments are not related to patentability issues and only further clarify subject matter already present. All of Applicant's amendments have only been done in order to advance prosecution in this case. Applicant respectfully requests reconsideration of the pending claims and favorable action in this case.

Information Disclosure Statement (IDS)

Applicant submits an IDS with this Response for the Examiner's review and consideration. Applicant respectfully requests that the Examiner formally indicate that the references were considered in the prosecution of the Application.

Section 102 Rejection

The Examiner rejects Claims 1, 4-8, 10-14, and 17-21 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,845,077 issued to Fawcett (hereinafter "*Fawcett*"). This rejection is respectfully traversed for the following reasons.

Fawcett cannot properly support a §102 rejection because it fails to teach, suggest, or disclose each and every limitation of Independent Claim 1. For example, Independent Claims 1, 8, 14, and 21 recite, in general, the ability to compare a first variable set maintained by *the communication device executing first software* to a second variable set maintained by *the communication device executing second software* to identify changed variables.

Fawcett discloses a service update application on the update service computer that compares the inventory data collected from the user computer to data stored in a database on the update service computer. Thus, the operation of *Fawcett* includes software of one device being compared to software being executed on another device, as opposed to comparing a first variable set maintained by the communication device executing first software to a second variable set maintained by the communication device executing second software. Thus, these Independent Claims are allowable over *Fawcett*.

Section 103 Rejection

The Examiner rejects Claims 2, 9, 15, and 22 under 35 U.S.C. §103(a) as being unpatentable over *Fawcett* in view of U.S. Patent No. 6,694,335 issued to Hopmann (hereinafter "*Hopmann*"). The Examiner rejects Claims 3 and 16 under 35 U.S.C. §103(a) as being unpatentable over *Fawcett* in view of U.S. Patent No. 6,381,741 issued to Shaw (hereinafter "*Shaw*"). These rejections are now moot in light of the §102 analysis provided supra. This is because in order to support a proper §103 rejection, the references, either standing alone or combined, must teach, suggest, or disclose all of the claim limitations. (See M.P.E.P. §2143.) Neither *Hopmann* nor *Shaw* are combinable with *Fawcett* in order to teach each and every limitation of any of the pending Independent Claims. None of these additional references teach the identified claim element of Independent Claims 1, 8, 14, and 21 that was lacking from *Fawcett*. Accordingly, all of the claims are allowable over the cited references. Notice to this effect is respectfully requested in the form of a full allowance of these claims.

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CONCLUSION

Applicant has now made an earnest attempt to place this case in condition for immediate allowance. For the foregoing reasons and for all other reasons clear and apparent, Applicant respectfully requests reconsideration and allowance of the pending claims.

The required fee of \$180.00 is submitted herewith for the IDS and is believed to be correct. However, if this is not correct, the Commissioner is hereby authorized to charge any additional fees or credit any overpayments to Deposit Account No. 02-0384 of Baker Botts, L.L.P.

If there are matters that can be discussed by telephone to advance prosecution of this application, Applicant invites the Examiner to contact its attorney at the number provided below.

Respectfully submitted,
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